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Maurice Valen

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EXAMINER

EIDE, HEIDI MARIE

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 30-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw 5,261,818 in view of Kumar 6,364,662.

3. Shaw teaches a tool bit for preparing an osteotomy in a jawbone comprising a longitudinal, rotatable shaft having a proximal end and a distal end, a mounting shank disposed at the proximal end of the longitudinal, rotatable shaft for interfacing with a handpiece of an osteotomy cutting and drilling system, a cutting and drilling portion axially aligned with and disposed at the distal end of the longitudinal rotatable shaft and comprising a osteotomy locator tip 14 comprising dual lobes disposed in a common plane, formed at a distal end of the cutting and drilling portion, a lateral redirector portion comprising cutting edges disposed in a common plane, axially aligned with and disposed adjacent the osteotomy locator tip and a crestal bone height reducing portion disposed intermediate the lateral redirector portion and the longitudinal rotatable shaft. As to claims 33 and 44 Shaw further teaches an osteocompressive portion 16 axially aligned with and disposed intermediate the longitudinal, rotatable shaft and cutting and drilling portion. As to claims 34-35 and 42-43, Shaw also teaches a tapered countersink axially aligned with and disposed intermediate the osteocompressive portion and the

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cutting and drilling portion wherein the tapered countersink further comprises a gross osseous crestal bone height reducer. As to claim 38, Shaw further teaches a linking member axially aligned with and disposed intermediate the osteocompressive portion and the end of the rotatable shaft and wherein the mounting shank includes a chuck comprising a generally I-shaped flat side and a generally semicircular disk above and adjacent to a generally semicircular groove (see appendix I for further explanation). As to claims 32 and 36, Shaw does not teach the specific dimensions of the different claimed portions including the lateral redirector, crestal bone height reducing portion, tapered countersink and the osteocompressive portion, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the different portions of specific size since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art (*In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)). Shaw does not teach the crestal bone height reducing portion and the lateral redirector portion comprising multifaceted serrated cutting edges and wherein the cutting and drilling portion along with the linking member is coated with a material to reduce the coefficient of friction and improve wear and corrosion resistance. Kumar teaches serrated cutting edges as illustrated in fig. 7 and a coating on the cutting and drilling portion along with on the linking member to reduce the coefficient of friction (col. 8, ll. 24-42). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Shaw in view of Kumar in order to facilitate in the insertion and removal of the bit as taught by Kumar (col. 8, ll. 40-42) and as a matter of obvious design choice.

Allowable Subject Matter

4. Claim 29 is allowed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEIDI M. BASHAW whose telephone number is (571)270-3081. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Heidi Bashaw
Examiner
Art Unit 3732

/John J Wilson/
Primary Examiner
Art Unit 3732

/Heidi M Bashaw/
Examiner, Art Unit 3732
9/16/2008

Appendix I

